

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CAREN BRITT,

Plaintiff

v.

S. RAY DERUSSE, and THE
PRUDENTIAL INSURANCE COMPANY
OF AMERICA,

Defendants

CIVIL ACTION NO. 05-30197

**DEFENDANT, THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA'S REPLY TO DERUSSE'S LIMITED OPPOSITION TO ITS MOTION
TO DISMISS WITH PREJUDICE**

Now comes the defendant, The Prudential Insurance Company of America ("Prudential"), and replies to Defendant's, S. Ray DeRusse's ("DeRusse") Limited Opposition to Prudential's Partially Assented-to Motion to Dismiss with Prejudice. In response to DeRusse's Limited Opposition, Prudential states as follows:

While Prudential understands DeRusse's concern that other policies may exist relating to Mr. Stewart, said policies are not at issue in this litigation. Claims relating to other policies clearly would not be part of the instant litigation brought by Plaintiff specifically relating to the life insurance policy provided to Mr. Stewart due to his veteran status. Further, if there were any premium payment issues with regard to the VGLI policy, which Prudential denies are at issue in this litigation, it is questionable that DeRusse would have any standing to bring such a claim. As noted in the Motion to Dismiss, Prudential has fulfilled all of its obligations with regard to the policy at issue in this litigation and has paid all of the disputed proceeds plus interest from said policy into an interest-bearing account with Court. Thus, the arguments made by DeRusse, who is not the policyholder or to Prudential's knowledge the administrator of the estate) and who has

not brought any claims against Prudential with regard to this particular policy, should not prevent Prudential from being dismissed with prejudice.

Regarding the policy at issue, Prudential is willing to produce the policy at issue in order to facilitate its dismissal with prejudice. With regard to the issue of discovery, Prudential, with the exception of the policy, has produced all of the non-privileged information contained in its file on this matter to the parties as exhibits to the Motion for Leave to Pay the Proceeds In. Since Prudential has already made this production and is willing to provide the parties with a copy of the policy, Prudential should be dismissed with prejudice.

WHEREFORE, Prudential asks that the Court grant its Motion to Dismiss With Prejudice and issue an order dismissing it from the instant litigation with prejudice and awarding it the costs and fees associated with the filing of the motion.

Respectfully submitted,

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA,

By Its Attorneys,

/s/ Carey L. Bertrand
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Carey L. Bertrand, BBO# 650496
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Edelman & Dicker, LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300

Dated: October 18, 2005

Assented to:

The Plaintiff,
Caren Britt,
By her Attorney,

/s/ Mark Tanner

Mark Tanner, BBO#649532

Bacon & Wilson, P.C.

31 Trumbull Rd.

Northampton, MA 01060

CERTIFICATE OF SERVICE

I, Carey L. Bertrand, do hereby certify that I have served a true copy of the foregoing document on counsel of record by first class mail, postage prepaid on this 18th day of October 2005.

/s/ Carey L. Bertrand

Carey Bertrand